

HOUSE BILL 652

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2001 Regular Session
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By: **Chairman, Environmental Matters Committee (Departmental - Health
and Mental Hygiene)**

Introduced and read first time: February 7, 2001

Assigned to: Environmental Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 17, 2001

CHAPTER_____

1 AN ACT concerning

2 **Department of Health and Mental Hygiene - Maryland Health Care**
3 **Commission - Modifications and Clarifications**

4 FOR the purpose of authorizing the Maryland Health Care Commission to adopt
5 regulations to establish certain deadlines for filing information and to impose
6 certain penalties in certain circumstances; making certain modifications to the
7 methodology for calculating user fees assessed payors; transferring certain
8 health planning functions to the Secretary of Health and Mental Hygiene;
9 repealing or transferring to the Secretary of Health and Mental Hygiene certain
10 provisions relating to establishment and operation of local health planning
11 agencies; altering certain definitions; clarifying that the Commission may
12 provide certain information to the Department of Health and Mental Hygiene
13 and local health departments; and generally relating to the Maryland Health
14 Care Commission.

15 BY repealing and reenacting, with amendments,
16 Article - Health - General
17 Section 1-101, 2-105, 19-109(a), 19-111, 19-114, 19-116(b), 19-121,
18 19-122(d)(4), 19-123(l)(2), 19-124(b)(1)(ii), 19-126(2), 19-127(a), (c)(3),
19 and (d), 19-134(f), and 19-135(a)(1) and (b)
20 Annotated Code of Maryland
21 (2000 Replacement Volume)

22 BY adding to
23 Article - Health - General
24 Section 2-401 to be under the new subtitle "Subtitle 4. Local Health Planning

1 Agencies"
2 Annotated Code of Maryland
3 (2000 Replacement Volume)

4 BY repealing
5 Article - Health - General
6 Section 19-118 through 19-120, inclusive
7 Annotated Code of Maryland
8 (2000 Replacement Volume)

9 BY renumbering
10 Article - Health - General
11 Section 19-121 through 19-125.2 and 19-126 through 19-138, respectively
12 to be Section 19-118 through 19-137, respectively
13 Annotated Code of Maryland
14 (2000 Replacement Volume)
15 (As enacted by Section 1 of this Act)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Health - General**

19 1-101.

20 (a) In this article the following words have the meanings indicated.

21 (b) "County" means a county of this State and, unless expressly provided
22 otherwise, Baltimore City.

23 (c) "Department" means the Department of Health and Mental Hygiene.

24 (d) "Health officer" means, unless expressly provided otherwise, the Baltimore
25 City Commissioner of Health or the health officer of a county.

26 (e) "Includes" or "including" means includes or including by way of illustration
27 and not by way of limitation.

28 (F) "LOCAL HEALTH PLANNING AGENCY" MEANS THE HEALTH DEPARTMENT
29 OF A JURISDICTION OR A BODY DESIGNATED BY THE LOCAL HEALTH DEPARTMENT
30 TO PERFORM HEALTH PLANNING FUNCTIONS.

31 [(f)] (G) "Medical examiner" means:

32 (1) The Chief Medical Examiner;

33 (2) The Deputy Chief Medical Examiner;

1 (3) Any assistant medical examiner; or

2 (4) Any deputy medical examiner.

3 [(g)] (H) "Person" means an individual, receiver, trustee, guardian, personal
4 representative, fiduciary, or representative of any kind and any partnership, firm,
5 association, corporation, or other entity.

6 [(h)] (I) "Physician" means an individual who is authorized under the
7 Maryland Medical Practice Act to practice medicine in this State.

8 [(i)] (J) "Secretary" means the Secretary of Health and Mental Hygiene.

9 [(j)] (K) "State" means:

10 (1) A state, possession, or territory of the United States;

11 (2) The District of Columbia; or

12 (3) The Commonwealth of Puerto Rico.

13 2-105.

14 (a) The Secretary shall establish general policy for, and adopt standards to
15 promote and guide the development of, the physical and mental hygiene services of
16 this State and its subdivisions.

17 (b) The Secretary is responsible for the health interests of the people of this
18 State and shall supervise generally the administration of the health laws of this State
19 and its subdivisions.

20 (C) THE SECRETARY SHALL ADOPT AND REVISE AS NECESSARY A STATE
21 HEALTH IMPROVEMENT PLAN THAT INCLUDES THE FOLLOWING:

22 (1) A DESCRIPTION OF THE COMPONENTS THAT SHOULD COMPRISE THE
23 HEALTH CARE SYSTEM;

24 (2) THE GOALS AND POLICIES FOR MARYLAND'S HEALTH CARE SYSTEM;

25 (3) IDENTIFICATION OF UNMET NEEDS AND EXCESS SERVICES FOR
26 FACILITIES AND SERVICES NOT REGULATED BY THE CERTIFICATE OF NEED
27 PROGRAM; AND

28 (4) AN ASSESSMENT OF THE FINANCIAL RESOURCES REQUIRED AND
29 AVAILABLE FOR THE HEALTH CARE SYSTEM.

30 SUBTITLE 4. LOCAL HEALTH PLANNING AGENCIES

31 2-401.

32 (A) A LOCAL HEALTH PLANNING AGENCY SHALL:

1 (1) DEVELOP A LOCAL HEALTH PLAN BY ASSESSING LOCAL HEALTH
2 NEEDS AND RESOURCES; AND

3 (2) PROVIDE INPUT INTO THE DEVELOPMENT OF STATEWIDE CRITERIA
4 AND STANDARDS FOR CERTIFICATE OF NEED AND HEALTH PLANNING.

5 (B) THE DEPARTMENT MAY REQUIRE THAT IN DEVELOPING LOCAL HEALTH
6 PLANS, EACH LOCAL HEALTH PLANNING AGENCY:

7 (1) USE DATA COMPATIBLE WITH STATE DATA AND DATA USED BY
8 OTHER LOCAL HEALTH PLANNING AGENCIES;

9 (2) MEET APPLICABLE PLANNING SPECIFICATIONS; AND

10 (3) WORK WITH OTHER LOCAL HEALTH PLANNING AGENCIES TO
11 ENSURE CONSISTENCY AMONG LOCAL HEALTH PLANS.

12 (C) SUBJECT TO THE ANNUAL STATE BUDGET, THE DEPARTMENT SHALL
13 PROVIDE FUNDING TO LOCAL HEALTH PLANNING AGENCIES FOR IMPLEMENTATION
14 OF THE FUNCTIONS UNDER THIS SECTION AND ANY OTHER FUNCTIONS REQUIRED
15 BY THE DEPARTMENT OR THE MARYLAND HEALTH CARE COMMISSION.

16 19-109.

17 (a) In addition to the powers set forth elsewhere in this subtitle, the
18 Commission may:

19 (1) Adopt rules and regulations to carry out the provisions of this
20 subtitle;

21 (2) Create committees from among its members;

22 (3) Appoint advisory committees, which shall include consumers and
23 may include representatives of interested public or private organizations, to make
24 recommendations to the Commission on community-based services, long term care,
25 acute patient services, ambulatory surgical services, specialized health care services,
26 residential treatment centers for emotionally disturbed children and adolescents,
27 mental health and alcohol and drug abuse services, and any other topic or issue that
28 the Commission considers necessary;

29 (4) Apply for and accept any funds, property, or services from any person
30 or government agency;

31 (5) Make agreements with a grantor or payor of funds, property, or
32 services, including an agreement to make any study, plan, demonstration, or project;

33 (6) Publish and give out any information that relates to the financial
34 aspects of health care and is considered desirable in the public interest; and

35 (7) Subject to the limitations of this subtitle, exercise any other power
36 that is reasonably necessary to carry out the purposes of this subtitle, INCLUDING

1 ADOPTING REGULATIONS THAT SET REASONABLE DEADLINES FOR FILING OF
2 INFORMATION OR REPORTS REQUIRED UNDER THIS SUBTITLE AND IMPOSE
3 REASONABLE PENALTIES FOR FAILURE TO FILE INFORMATION OR REPORTS AS
4 REQUIRED.

5 19-111.

6 (a) (1) In this section the following words have the meanings indicated.

7 (2) "Fund" means the Maryland Health Care Commission Fund.

8 (3) "Health benefit plan" has the meaning stated in § 15-201 of the
9 Insurance Article.

10 (4) "Health care practitioner" means any individual who is licensed,
11 certified, or otherwise authorized under the Health Occupations Article to provide
12 health care services.

13 (5) "Nursing home" means a related institution that is classified as a
14 nursing home.

15 (6) "Payor" means:

16 (i) A health insurer or nonprofit health service plan that holds a
17 certificate of authority and provides health insurance policies or contracts in the
18 State in accordance with this article or the Insurance Article; or

19 (ii) A health maintenance organization that holds a certificate of
20 authority in the State.

21 (b) Subject to the provisions of subsection (d) of this section, the Commission
22 shall assess a fee on:

23 (1) All hospitals;

24 (2) All nursing homes;

25 (3) All payors; and

26 (4) All health care practitioners.

27 (c) (1) The total fees assessed by the Commission may not exceed \$8,250,000
28 in any fiscal year.

29 (2) The fees assessed by the Commission shall be used exclusively to
30 cover the actual documented direct costs of fulfilling the statutory and regulatory
31 duties of the Commission in accordance with the provisions of this subtitle.

32 (3) The Commission shall pay all funds collected from the fees assessed
33 in accordance with this section into the Fund.

1 (4) The fees assessed may be expended only for purposes authorized by
2 the provisions of this subtitle.

3 (d) Of the total fees assessed by the Commission under this section in any
4 fiscal year, the Commission:

5 (1) In lieu of the application fees provided for in [§ 19-123] § 19-120 of
6 this subtitle, shall assess:

7 (i) Hospitals and special hospitals for an amount not exceeding
8 36% of the total amount assessed; and

9 (ii) Nursing homes for an amount not exceeding 5% of the total
10 amount assessed;

11 (2) Shall assess payors for an amount not exceeding 40% of the total
12 amount assessed; and

13 (3) Shall assess health care practitioners for an amount not exceeding
14 19% of the total amount assessed.

15 (e) (1) The fees assessed in accordance with this section on health care
16 practitioners shall be:

17 (i) Included in the licensing fee paid to the health care
18 practitioner's licensing board; and

19 (ii) Transferred by the health care practitioner's licensing board to
20 the Commission on a quarterly basis.

21 (2) The Commission may adopt regulations that waive the fee assessed
22 under this section for a specific class of health care practitioners.

23 (f) (1) There is a Maryland Health Care Commission Fund.

24 (2) The Fund is a special continuing, nonlapsing fund that is not subject
25 to § 7-302 of the State Finance and Procurement Article.

26 (3) The Treasurer shall separately hold, and the Comptroller shall
27 account for, the Fund.

28 (4) The Fund shall be invested and reinvested in the same manner as
29 other State funds.

30 (5) Any investment earnings shall be retained to the credit of the Fund.

31 (6) The Fund shall be subject to an audit by the office of legislative
32 audits as provided for in § 2-1220 of the State Government Article.

33 (7) This section may not be construed to prohibit the Fund from
34 receiving funds from any other source.

1 (8) The Fund shall be used only to provide funding for the Commission
2 and for the purposes authorized under this subtitle.

3 (g) On or before May 30 of each year, the Insurance Commissioner shall notify
4 the Commission of the total premiums [collected] EARNED in the State for health
5 benefit plans of all payors in the State during the prior calendar year and each
6 payor's total premiums EARNED in the State for health benefit plans for the same
7 calendar year.

8 (h) The Commission shall:

9 (1) (i) Assess fees on payors in a manner that apportions the total
10 amount of the fees to be assessed on payors under subsection (d)(2) of this section
11 among each payor based on the ratio of each payor's total premiums [collected]
12 EARNED in the State for health benefit plans to the total [collected] EARNED
13 premiums of all payors [collected] EARNED in the State; and

14 (ii) On or before June 30 of each year, assess each payor a fee in
15 accordance with item (i) of this item;

16 (2) (i) Assess fees for each hospital equal to the sum of:

17 1. The amount equal to one-half of the total fees to be
18 assessed on hospitals under subsection (d)(1)(i) of this section times the ratio of
19 admissions of the hospital to total admissions of all hospitals; and

20 2. The amount equal to one-half of the total fees to be
21 assessed on hospitals under subsection (d)(1)(i) of this section times the ratio of gross
22 operating revenue of each hospital to total gross operating revenues of all hospitals;

23 (ii) Establish minimum and maximum assessments; and

24 (iii) On or before June 30 of each year, assess each hospital a fee in
25 accordance with item (i) of this item; and

26 (3) (i) Assess fees for each nursing home equal to the sum of:

27 1. The amount equal to one-half of the total fees to be
28 assessed on nursing homes under subsection (d)(1)(ii) of this section times the ratio of
29 admissions of the nursing home to total admissions of all nursing homes; and

30 2. The amount equal to one-half of the total fees to be
31 assessed on nursing homes under subsection (d)(1)(ii) of this section times the ratio of
32 gross operating revenue of each nursing home to total gross operating revenues of all
33 nursing homes;

34 (ii) Establish minimum and maximum assessments; and

35 (iii) On or before June 30 of each year, assess each nursing home a
36 fee in accordance with item (i) of this item.

1 (i) (1) On or before September 1 of each year, each payor, hospital, and
2 nursing home assessed under this section shall make payment to the Commission.

3 (2) The Commission shall make provisions for partial payments.

4 (j) Any bill not paid within 30 days of the payment due date may be subject to
5 an interest penalty to be determined and collected by the Commission.

6 19-114.

7 (a) In this Part II of this subtitle the following words have the meanings
8 indicated.

9 (b) (1) "Ambulatory surgical facility" means any center, service, office,
10 facility, or office of one or more health care practitioners or a group practice, as
11 defined in § 1-301 of the Health Occupations Article, that:

12 (i) Has two or more operating rooms;

13 (ii) Operates primarily for the purpose of providing surgical
14 services to patients who do not require overnight hospitalization; and

15 (iii) Seeks reimbursement from payors as an ambulatory surgical
16 facility.

17 (2) For purposes of this subtitle, the office of one or more health care
18 practitioners or a group practice with two operating rooms may be exempt from the
19 certificate of need requirements under this subtitle if the Commission finds, in its
20 sole discretion, that:

21 (i) A second operating room is necessary to promote the efficiency,
22 safety, and quality of the surgical services offered; and

23 (ii) The office meets the criteria for exemption from the certificate
24 of need requirements as an ambulatory surgical facility in accordance with
25 regulations adopted by the Commission.

26 (c) "Certificate of need" means a certification of public need issued by the
27 Commission under this Part II of this subtitle for a health care project.

28 [(d) "Federal Act" means the National Health Planning and Resources
29 Development Act of 1974 (Public Law 93-641), as amended.]

30 [(e)] (D) (1) "Health care facility" means:

31 (i) A hospital, as defined in § 19-301(g) of this title;

32 (ii) A limited service hospital, as defined in § 19-301(e) of this title;

33 (iii) A related institution, as defined in § 19-301 of this title;

- 1 (iv) An ambulatory surgical facility;
- 2 (v) An inpatient facility that is organized primarily to help in the
3 rehabilitation of disabled individuals, through an integrated program of medical and
4 other services provided under competent professional supervision;
- 5 (vi) A home health agency, as defined in § 19-401 of this title;
- 6 (vii) A hospice, as defined in § 19-901 of this title; and
- 7 (viii) Any other health institution, service, or program for which this
8 Part II of this subtitle requires a certificate of need.
- 9 (2) "Health care facility" does not include:
- 10 (i) A hospital or related institution that is operated, or is listed and
11 certified, by the First Church of Christ Scientist, Boston, Massachusetts;
- 12 (ii) For the purpose of providing an exemption from a certificate of
13 need under [§ 19-123] § 19-120 of this subtitle, a facility to provide comprehensive
14 care constructed by a provider of continuing care, as defined by Article 70B of the
15 Code, if:
- 16 1. Except as provided under [§ 19-125.1] § 19-123 of this
17 subtitle, the facility is for the exclusive use of the provider's subscribers who have
18 executed continuing care agreements and paid entrance fees that are at least equal to
19 the lowest entrance fee charged for an independent living unit or an assisted living
20 unit before entering the continuing care community, regardless of the level of care
21 needed by the subscribers at the time of admission;
- 22 2. The facility is located on the campus of the continuing care
23 community; and
- 24 3. The number of comprehensive care nursing beds in the
25 community does not exceed:
- 26 A. 24 percent of the number of independent living units in a
27 community having less than 300 independent living units; or
- 28 B. 20 percent of the number of independent living units in a
29 community having 300 or more independent living units;
- 30 (iii) Except for a facility to provide kidney transplant services or
31 programs, a kidney disease treatment facility, as defined by rule or regulation of the
32 United States Department of Health and Human Services;
- 33 (iv) Except for kidney transplant services or programs, the kidney
34 disease treatment stations and services provided by or on behalf of a hospital or
35 related institution; or

1 (v) The office of one or more individuals licensed to practice
2 dentistry under Title 4 of the Health Occupations Article, for the purposes of
3 practicing dentistry.

4 [(f)] (E) "Health care practitioner" means any individual who is licensed,
5 certified, or otherwise authorized under the Health Occupations Article to provide
6 health care services.

7 [(g)] (F) "Health service area" means an area of this State that the Governor
8 designates as appropriate for planning and developing of health services.

9 [(h)] (G) "Local health planning agency" means [a body that the Commission]
10 THE HEALTH DEPARTMENT OF A JURISDICTION OR A BODY DESIGNATED BY THE
11 LOCAL HEALTH DEPARTMENT [designates] to perform health planning [and
12 development] functions [for a health service area].

13 (H) "STATE HEALTH PLAN" MEANS THE STATE HEALTH PLAN FOR FACILITIES
14 AND SERVICES.

15 19-116.

16 (b) (1) In addition to information that an applicant for a certificate of need
17 must provide, the Commission may request, collect, and report any statistical or other
18 information that:

19 (i) Is needed by the Commission to perform its duties described in
20 this Part II of this subtitle; and

21 (ii) Is described in regulations of the Commission.

22 (2) If a health care facility fails to provide information as required in this
23 subsection, the Commission may:

24 (i) Impose a penalty of not more than \$100 per day for each day the
25 violation continues after consideration of the willfulness and seriousness of the
26 withholding, as well as any past history of withholding of information;

27 (ii) Issue an administrative order that requires the applicant to
28 provide the information; or

29 (iii) Apply to the circuit court in the county in which the facility is
30 located for legal relief considered appropriate by the Commission.

31 (3) The Commission may send to THE DEPARTMENT OR a local health
32 planning agency any statistical or other information the Commission is authorized to
33 collect under paragraph (1) of this subsection.

34 [19-118.

35 (a) The Commission shall designate, for each health service area, not more
36 than 1 local health planning agency.

1 (b) Local health systems agencies shall be designated as the local health
2 planning agency for a one-year period beginning October 1, 1982, provided that the
3 local health systems agency has:

4 (1) Full or conditional designation by the federal government by October
5 1, 1982;

6 (2) The ability to perform the functions prescribed in subsection (d) of
7 this section; or

8 (3) Received the support of the local governments in the areas in which
9 the agency is to operate.

10 (c) The Commission shall establish by regulation criteria for designation of
11 local health planning agencies.

12 (d) Applicants for designation as the local health planning agency shall, at a
13 minimum, be able to:

14 (1) Assure broad citizen representation, including a board with a
15 consumer majority;

16 (2) Develop a local health plan by assessing local health needs and
17 resources, establishing local standards and criteria for service characteristics,
18 consistent with State specifications, and setting local goals and objectives for systems
19 development;

20 (3) Provide input into the development of statewide criteria and
21 standards for certificate of need and health planning; and

22 (4) Provide input into evidentiary hearings on the evaluation of
23 certificate of need applications from its area. Where no local health planning agency
24 is designated, the Commission shall seek the advice of the local county government of
25 the affected area.

26 (e) (1) The Commission shall establish criteria for obtaining input from
27 affected local health planning agencies when considering an application for certificate
28 of need.

29 (2) Where no local health planning agency is designated, the
30 Commission shall seek the advice of the local county government of the affected area.

31 (f) The Commission shall require that in developing local health plans, each
32 local health planning agency:

33 (1) Use the population estimates that the Department prepares under §
34 4-218 of this article;

35 (2) Use the figures and special age group projections that the
36 Department of Planning prepares annually for the Commission;

1 (3) Meet applicable planning specifications; and

2 (4) Work with other local health planning agencies to ensure consistency
3 among local health plans.]

4 [19-119.

5 Annually each local health planning agency shall receive the Department's
6 program and budgetary priorities no later than July 1 and may submit to the
7 Secretary comments on the proposed program and budgetary priorities within 60
8 days after receiving the proposals.]

9 [19-120.

10 (a) (1) The governing body or bodies of 1 or more adjacent counties that
11 constitute a health service area may establish a body to serve as the local health
12 planning agency for the health service area, by:

13 (i) Making a joint agreement as to the purpose, structure, and
14 functions of the proposed body; and

15 (ii) Each enacting an ordinance that designates the proposed body
16 to be the local health planning agency for the county.

17 (2) The body so established becomes the local health planning agency if
18 the Commission designates the body as a health planning agency.

19 (b) The governing board shall exercise all of the powers of the local health
20 planning agency that, by law, agreement of the counties, or bylaws of the local health
21 planning agency, are not conferred on or reserved to the counties or to another
22 structure within the local health planning agency.

23 (c) In addition to the powers set forth elsewhere in this Part II of this subtitle,
24 each local health planning agency created under this section may:

25 (1) Sue and be sued;

26 (2) Make contracts;

27 (3) Incur necessary obligations, which may not constitute the obligations
28 of any county in the health service area;

29 (4) Acquire, hold, use, improve, and otherwise deal with property;

30 (5) Elect officers and appoint agents, define their duties, and set their
31 compensation;

32 (6) Adopt and carry out an employee benefit plan;

33 (7) Adopt bylaws to conduct its affairs; and

1 (8) Use the help of any person or public agency to carry out the plans and
2 policies of the local health planning agency.

3 (d) (1) In addition to the duties set forth elsewhere in this Part II of this
4 subtitle, each local health planning agency created under this section shall submit
5 annually to the governing body of each county in the health service area a report on
6 the activities of the local health planning agency.

7 (2) The report shall include an account of the funds, property, and
8 expenses of the local health planning agency in the preceding year.]

9 19-121.

10 (a) (1) At least every 5 years, beginning no later than October 1, 1983, the
11 Commission shall adopt a State health plan [that includes local health plans].

12 (2) The plan shall include:

13 (i) A description of the components that should comprise the health
14 care system;

15 (ii) The goals and policies for Maryland's health care system;

16 (iii) Identification of unmet needs, excess services, minimum access
17 criteria, and services to be regionalized;

18 (iv) An assessment of the financial resources required and available
19 for the health care system;]

20 [(v)] (I) The methodologies, standards, and criteria for certificate
21 of need review; and

22 [(vi)] (II) Priority for conversion of acute capacity to alternative uses
23 where appropriate.

24 (b) [The Commission shall adopt specifications for the development of local
25 health plans and their coordination with the State health plan.]

26 [(c)] Annually or upon petition by any person, the Commission shall review the
27 State health plan and publish any changes in the plan that the Commission considers
28 necessary, subject to the review and approval granted to the Governor under this
29 subtitle.

30 [(d)] (C) The Commission shall adopt rules and regulations that ensure broad
31 public input, public hearings, and consideration of local health plans in development
32 of the State health plan.

33 [(e)] (D) (1) The Commission shall develop standards and policies consistent
34 with the State health plan that relate to the certificate of need program.

35 (2) The standards:

1 (i) Shall address the availability, accessibility, cost, and quality of
2 health care; and

3 (ii) Are to be reviewed and revised periodically to reflect new
4 developments in health planning, delivery, and technology.

5 (3) In adopting standards regarding cost, efficiency, cost-effectiveness,
6 or financial feasibility, the Commission shall take into account the relevant
7 methodologies of the Health Services Cost Review Commission.

8 [(f)] (E) Annually, the Secretary shall make recommendations to the
9 Commission on the plan. The Secretary may review and comment on State
10 specifications to be used in the development of the State health plan.

11 [(g)] (F) All State agencies and departments, directly or indirectly involved
12 with or responsible for any aspect of regulating, funding, or planning for the health
13 care industry or persons involved in it, shall carry out their responsibilities in a
14 manner consistent with the State health plan and available fiscal resources.

15 [(h)] (G) In carrying out their responsibilities under this Part II of this subtitle
16 for hospitals, the Commission and the Secretary shall recognize, but may not apply,
17 develop, or duplicate standards or requirements related to quality which have been
18 adopted and enforced by national or State licensing or accrediting authorities.

19 [(i)] (H) The Commission shall transfer to the Department of Health and
20 Mental Hygiene health planning functions and necessary staff resources for licensed
21 entities in the State health plan that are not required to obtain a certificate of need or
22 an exemption from the certificate of need program.

23 19-122.

24 (d) (4) A State health plan developed or adopted after the incorporation of
25 the institution-specific plan into the State health plan shall include the criteria in
26 subsection (b) of this section in addition to the criteria in [§ 19-121] § 19-118 of this
27 subtitle.

28 19-123.

29 (l) A certificate of need is not required to close any hospital or part of a
30 hospital as defined in § 19-301 of this title if:

31 (2) (i) For a hospital located in a county with fewer than three
32 hospitals, at least 45 days before the closing or partial closing of the hospital, a person
33 proposing to close all or part of the hospital files notice of the proposed closing or
34 partial closing with the Commission; and

35 (ii) The Commission finds that the closing:

36 1. Is in the public interest; and

1 2. Is not inconsistent with:

2 A. The State health plan; or

3 B. An institution-specific plan developed by the Commission

4 under [§ 19-122] § 19-119 of this subtitle.

5 19-124.

(b) (1) A health maintenance organization or a health care facility that either controls, directly or indirectly, or is controlled by a health maintenance organization shall have a certificate of need before the health maintenance organization or health care facility builds, develops, operates, purchases, or participates in building, developing, operating, or establishing:

(ii) Any other health care project for which a certificate of need is required under [§ 19-123] § 19-120 of this subtitle if that health care project is planned for or used by any nonsubscribers of that health maintenance organization.

15 A certificate of need is required before an ambulatory care facility:

(2) To provide those services, makes an expenditure, if a certificate of need would be required under [§ 19-123(k)] § 19-120(K) of this subtitle for the expenditure by or on behalf of a health care facility; or

19 19-127.

(a) If the Commission receives an application for a certificate of need for a change in the bed capacity of a health care facility, as required under [§ 19-123] § 19-120 of this subtitle, or for a health care project that would create a new health care service or abolish an existing health care service, the Commission shall give notice of the filing by publication in the Maryland Register and give the following notice to:

25 (1) Each member of the General Assembly in whose district the action is
26 planned;

27 (2) Each member of the governing body for the county where the action is
28 planned;

29 (3) The county executive, mayor, or chief executive officer, if any, in
30 whose county or city the action is planned; and

31 (4) Any health care provider, third party payor, local planning agency, or
32 any other person the Commission knows has an interest in the application.

33 (c) (3) Unless the Commission finds that the facility or service for which the
34 proposed expenditure is to be made is not needed or is not consistent with the State
35 health plan, the Commission shall approve an application for a certificate of need

1 required under [§ 19-123(k)] § 19-120(K) of this subtitle to the extent that the
2 expenditure is to be made to:

3 (i) Eliminate or prevent an imminent safety hazard, as defined by
4 federal, State, or local fire, building, or life safety codes or regulations;

5 (ii) Comply with State licensing standards; or

6 (iii) Comply with accreditation standards for reimbursement under
7 Title XVIII of the Social Security Act or under the State Medical Assistance Program
8 approved under Title XIX of the Social Security Act.

9 (d) (1) The Commission alone shall have final nondelegable authority to act
10 upon an application for a certificate of need, except as provided in this subsection.

11 (2) Seven voting members of the Commission shall be a quorum to act on
12 an application for a certificate of need.

13 (3) After an application is filed, the staff of the Commission:

14 (i) Shall review the application for completeness within 10 working
15 days of the filing of the application; and

16 (ii) May request further information from the applicant.

17 (4) The Commission may delegate to a reviewer the responsibility for
18 review of an application for a certificate of need, including:

19 (i) The holding of an evidentiary hearing if the Commission, in
20 accordance with criteria it has adopted by regulation, considers an evidentiary
21 hearing appropriate due to the magnitude of the impact the proposed project may
22 have on the health care delivery system; and

23 (ii) Preparation of a recommended decision for consideration by the
24 full Commission.

25 (5) The Commission shall designate a single Commissioner to act as a
26 reviewer for the application and any competing applications.

27 (6) The Commission shall delegate to its staff the responsibility for an
28 initial review of an application, including, in the event that no written comments on
29 an application are submitted by any interested party other than the staff of the
30 Commission, the preparation of a recommended decision for consideration by the full
31 Commission.

32 (7) Any "interested party" may submit written comments on the
33 application in accordance with procedural regulations adopted by the Commission.

34 (8) The Commission shall define the term "interested party" to include,
35 at a minimum:

- 1 (i) The staff of the Commission;
- 2 (ii) Any applicant who has submitted a competing application;
- 3 [and]
- 4 (iii) Any other person who can demonstrate that the person would
- 5 be adversely affected by the decision of the Commission on the application; AND
- 6 (IV) A LOCAL HEALTH PLANNING AGENCY FOR A JURISDICTION OR
- 7 REGION IN WHICH THE PROPOSED FACILITY OR SERVICE WILL BE LOCATED.
- 8 (9) The reviewer shall review the application, any written comments on
- 9 the application, and any other materials permitted by this section or by the
- 10 Commission's regulations, and present a recommended decision on the application to
- 11 the full Commission.
- 12 (10) (i) An applicant and any interested party may request the
- 13 opportunity to present oral argument to the reviewer, in accordance with regulations
- 14 adopted by the Commission, before the reviewer prepares a recommended decision on
- 15 the application for consideration by the full Commission.
- 16 (ii) The reviewer may grant, deny, or impose limitations on an
- 17 interested party's request to present oral argument to the reviewer.
- 18 (11) Any interested party who has submitted written comments under
- 19 paragraph (7) of this subsection may submit written exceptions to the proposed
- 20 decision and make oral argument to the Commission, in accordance with regulations
- 21 adopted by the Commission, before the Commission takes final action on the
- 22 application.
- 23 (12) The Commission shall, after determining that the recommended
- 24 decision is complete, vote to approve, approve with conditions, or deny the application
- 25 on the basis of the recommended decision, the record before the staff or the reviewer,
- 26 and exceptions and arguments, if any, before the Commission.
- 27 (13) The decision of the Commission shall be by a majority of the quorum
- 28 present and voting.
- 29 19-134.
- 30 (f) Until the provisions of [§ 19-135] § 19-134 of this subtitle are fully
- 31 implemented, where appropriate, the Commission may limit the data collection under
- 32 this section.
- 33 19-135.
- 34 (a) (1) In order to more efficiently establish a medical care data base under
- 35 [§ 19-134] § 19-133 of this subtitle, the Commission shall establish standards for the
- 36 operation of one or more medical care electronic claims clearinghouses in Maryland
- 37 and may license those clearinghouses meeting those standards.

1 (b) The Commission may collect the medical care claims information
2 submitted to any licensed claims clearinghouse for use in the data base established
3 under [§ 19-134] § 19-133 of this subtitle.

4 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 19-121
5 through 19-125.2 and 19-126 through 19-138, respectively, of Article - Health -
6 General of the Annotated Code of Maryland be renumbered to be Section(s) 19-118
7 through 19-137, respectively.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 July 1, 2001.